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C O N F I D E N T I A L ZAGREB 001553

SIPDIS

DEPT FOR EUR DICARLO; EUR/SCE ENGLISH, BELL; S/WCI-PROSPER,  
HODGKINSON; L/EUR JOHNSON; INR MORIN  
DEPT PLEASE PASS TO NSC BRAUN

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TAGS: KAWC PGOV PREL HR

SUBJECT: WAR CRIMES: CROATIA PROSECUTING ITS OWN

REF: A. ZAGREB 1254

1B. ZAGREB 1175 AND PREVIOUS

Classified By: Ralph Frank, reasons 1.4 (b) & (d).

¶11. (U) SUMMARY AND COMMENT: The GoC welcomed the September 14 decision by the International Criminal Tribunal for the former Yugoslavia (IChY) to refer the war crimes case against Rahim Ademi and Mirko Norac to the Croatia, saying it shows the credibility of the country's judiciary. Recent domestic investigations and prosecutions uphold the confidence the ICTY has shown in the local courts, demonstrating that the GoC no longer shrinks from addressing crimes committed by Croatians against ethnic Serbs. USG-funded training and equipment have helped strengthen the courts' resolve in these sensitive cases. END SUMMARY AND COMMENT.

CROATIA'S FIRST (AND ONLY?) RULE 11 BIS TRANSFER

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¶12. (SBU) Ademi and Norac are charged with individual and command responsibility for crimes against Serb civilians and prisoners of war during the 1993 Medak Pocket Operation. The Croatian judiciary is well aware that the Ademi-Norac referral will serve as a critical test of its readiness for additional transfers, though most likely only cases at the pre-indictment stage. The GoC is anxious to fully demonstrate this capacity, both to remove a barrier to Euro-Atlantic integration and to reduce the political fallout from sending indoctees to The Hague.

¶13. (SBU) The ICTY Office of the Prosecutor has until October 14 to hand over all case material and evidence to Croatian Chief State Prosecutor Mladen Bajic. Bajic must then recommend to the Supreme Court where he can best prosecute the case. The Supreme Court then accepts or rejects the recommendation, and, once a proposal is accepted, officially designates the venue for the trial. Bajic recently told PolOff he intends to request that the case be tried in Zagreb County Court, which just convicted five former Croatian reserve policemen for a wartime murder near Pakrac in 1991.

COMBINED 30 YEARS FOR DEFENDANTS IN PAKRACKA POLJANA CASE

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¶14. (U) The Zagreb County Court sentenced the five to prison terms ranging from two to ten years for murder and illegal detention in an unofficial prison camp about 100 kilometers east of Zagreb. According to the verdict, ethnic Serb prisoners were treated in a manner "not seen since the times of Nazism." An inadmissible confession of one defendant indicated more than 200 people were killed in the Pakracka Poljana camp, but the court was only able to uncover evidence for one murder.

¶15. (C) At the time of the crimes, the five were under the command of Tomislav Mercep, who many expected to be indicted by the ICTY. Instead, his case will likely be a non-11 bis transfer. Head of the ICTY liaison office in Zagreb Thomas Osorio told PolOff that much of the evidence for the Pakracka Poljana case came from ICTY investigators, already demonstrating Croatia's capacity to handle such transfers.

RE-TRIAL BEGINS IN INFAMOUS LORA PRISON CASE

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¶16. (U) On September 12, the Split County Court began the re-trial of eight Croatian military police for the murder and abuse of Serb inmates at the Lora Military Prison in 1992. The original trial in 2001 ended in acquittal but was marred by extreme misconduct and bias on the part of the presiding judge in favor of the defendants. The Supreme Court quashed the acquittal in 2004 and ordered a trial before a new panel of judges.

¶17. (U) The new presiding judge, Spomenka Tokovic, assured PolOff that the re-trial will be free of any bias. In the first week of hearings, she has already demonstrated that the

new trial will be far more credible than the first. Judge Tokovic also expressed gratitude for the USG donation of a digital video-conference system for use in witness protection, which she said will be vital for questioning the 55 witnesses from four countries to be heard in the case.

¶8. (C) Croatian police also continue to aggressively investigate liquidations of Serb civilians in and around Osijek in 1991 (ref A) despite attempts by suspects to obstruct the process (septel).

FRANK

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